

**TOWN OF CLINTON  
PLANNING BOARD IN-PERSON MEETING  
FINAL MINUTES  
August 2, 2022**

**MEMBERS PRESENT**

Art DePasqua, Chairman  
Jack Auspitz  
Tom Bannano  
Gerald Dolan  
Justin Carroll  
Alex Ferrini  
Paul Thomas

**MEMBERS ABSENT**

**ALSO PRESENT**

Secretary – Arlene Campbell

Eliot Werner, Liaison Officer

Chairman DePasqua called the meeting to order at 7:33 pm.

**VARIANCE APPLICATION:**

**Romeobird LLC variance** – property located at Lake Pleasant Drive, Tax Grid No. 6268-781093.

Applicants seek the following variances to Sec. 250-16 Attachment 2 in (Area Bulk Regulations) order to construct a single-family home in the AR5 Zoning District.

- Side yard Setback from 50' to 48.1'
- Side yard setback reduction from 50' to 45.9'
- Open space from 75% to 71.3%

Mr. Graminski appeared and explained that they are proposing a new single-family two story residence on the west side of Lake Pleasant Drive. This is a 1.1-acre nonconforming lot in an AR5 Zoning District. He indicated the variances required as stated above. This lot was originally Board of Health approved for a two-bedroom house. They submitted an application in July to the Department of Health to upgrade the septic system to a 3-bedroom house and is currently under review.

Mr. Auspitz commented that one of the criteria for a variance is that “No other alternative or achieved by other method”. Mr. Graminski responded that this is a nonconforming lot. The total width of the residence is 22 feet. The lot is long and narrow. He also explained the open space variance requirement given the 1.1 acreage in the five-acre zone. Per his calculation, the area that is being

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developed came up to 71.3% as opposed to the zoning requirement of 75%. He added that the proposed project does not need a variance to the building coverage.

Mr. Auspitz asked Mr. Graminski how he came up with the 71.3%. Mr. Graminski responded that he calculated the disturbance areas so he included the building coverage, the driveway and the area for sewage disposal.

The board had a lengthy discussion about the open space requirement. Mr. Auspitz commented that he doesn't think that the board includes the driveway and the septic area in this calculation. Mr. Graminski noted that he included the septic and the driveway in his calculation since his interpretation of the law is conservative.

Mr. Carroll stated that the board normally calculate it by getting the footprints of the house and all the improvements on the property and divide it by the lot size.

The board felt that this calculation is over conservative but agreed to defer this issue to the Zoning Board of Appeals.

**Sec. 250-105 Open Space** - Land and/or water in its natural state and containing no buildings or structures or land set aside or dedicated to remain unimproved except for improvements in support of agriculture.

The board agreed to do a recommendation to the Zoning Board of Appeals.

Mr. Auspitz motioned that the Planning Board approves the following resolution:

***WHEREAS***

1. Applicant Romeobird LLC by its authorized agent seeks area variances for side yard and minimum open space limitations, pursuant to Section 250-16 and Attachment 2 of the Zoning Code, for a proposed residence on its 1.1 Clinton (6268-00-781093)
2. The side yard variances sought are for 45.9' (including deck). and 48.1' instead of the required minimum of 50'. The proposed building is 3000 sq.ft. This is less than the maximum allowed building coverage. However, applicant states, as discussed below, that the open space will be only 71.3%, which is less than the 75% required. Applicant was previously approved by the Board of Health for a two-bedroom house but now wishes to build a three-bedroom home. Applicant has applied to the BOH for three bedrooms and is in discussions with the BOH regarding that matter.

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3. The need for variances arises from the relatively small size of the lot. Many of the other lots on Lake Pleasant Drive are also pre-existing non-conforming lots in this AR5 zone.
4. Because the side variances sought are relatively small and the open space is at the least close to the minimum required, we believe the needs for area variances are met. Thus, the variances will not create an undesirable change in the character of the neighborhood or a detriment to nearby properties. There are adjacent homes on each side of the property, either existing or under construction. Obviously, the proposed house on the property in question will be visible from both sides but the visual impact of the proposed home to the adjacent ones will not be significantly different than if the house were two or four feet farther away and thus in conformity with the regulation.
5. The benefit sought cannot be accomplished by some standards, according to applicants. The proposed house would be long and narrow, only 22' wide. The side variances seem appropriate to make this design livable.
6. As to the minimum open space, applicant's representative states that he computed the 71.6% figure by including land for the driveway and septic field because they are improvements on the property. The Code defines "open space" as "land ... in its natural state and containing no buildings or structures..." We defer to the Zoning Board of Appeals as to whether this is an appropriate case to consider the proper calculation of minimum open space but even if applicant's definition is correct, we believe the various sought is relatively small and appropriate.
7. The side variances are less than 4% on one side and about 8% on the other, according to the zoning administrator. As indicated, we believe none of the distances are substantial enough to deny a variance. None of the variances will have an adverse effect on the physical or environmental conditions in the neighborhood. The difficulty is self-created.

***NOW THEREFORE BE IT RESOLVED THAT*** the Planning Board hereby respectfully makes a positive recommendation to the Zoning Board of Appeals with respect to the variances sought for this property.

Seconded by Mr. Thomas.

**Discussion.** Mr. DePasqua suggested including a note about the current 3-bedroom Board of Health approval process in the resolution. The board agreed.

All Aye, Motion carried, 7-0.

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**Koleoglou Variance** – property owned by Peter Koleoglou located on Lake Drive, Tax Grid No. 6468-00-072915.

Applicant seeks an area variance to Sec. 250-10 D-5 from 200 feet to 100 feet from the lake to construct a new four-bedroom one family dwelling.

Mr. Koleoglou appeared for his application. This is a 3.48-acre nonconforming lot in the C Zoning district. This land was board of health approved in 1986. Per the town zoning requirement, onsite wastewater treatment system should be 200 feet of a lake or waterbody.

**Sec, 250-10 D-5-(a) Sewage treatment systems** states that “No septic system or other facility for the deposit or treatment of human wastes or wastewater shall be constructed within 200 feet of a lake, watercourse or wetland or in such a place or manner to threaten to contaminate the same. Such restriction shall not apply to septic systems installed before the effective date of this chapter.

Mr. Koleoglou stated that the Department of Health regulation calls for 100 feet setback but they need a variance per the town regulations.

Chairman DePasqua asked for questions and comments from the board.

Mr. Bonanno asked the applicant if he also owns the adjoining properties. Mr. Koleoglou responded, “Yes”. He owns a total of three properties.

Mr. Bananno asked if there is a way to avoid the variance like lot line alteration or merging the lots. This property is in the C Zone District and there must be a reason why 200 feet is the required setback per the zoning regulation. He solicited the board’s comments about the issue.

The board reviewed the map and exchanged opinion about the issue.

Chairman DePasqua stated that one of the variance criteria is “The variance cannot be achieved by other feasible method...” Mr. DePasqua commented that it seems that there are other methods like combining the lots to avoid the variance. This is a difficult variance to grant given the regulation. This is also to protect the lake.

Mr. Koleoglou expressed his understanding about the concern. He stated that the proposed septic is 150 feet away from the lake and 175 feet back from the wetlands.

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Mr. Carroll commented that the value of a buildable lot is diminished when lots are combined. He would rather see a lot line adjustment rather than combining the lots to avoid the variance and devaluing the land.

Mr. Thomas asked how the lot line can be moved to avoid the variance.

The board had a lengthy discussion about the options. Mr. Koleoglou stated that his engineer laid out two areas to put the septic. The septic cannot be located to the reserve area. It needs to have a reserve area.

After a very lengthy discussion, the board agreed that the applicant needs to check other options with his engineer to avoid the variance. It seems that the leach field is an ideal place to put the septic to meet the setback requirement. The map needs to be revised to show the new proposed location. The applicant is scheduled to come back before the board on August 16 and go before the ZBA for the final say at the ZBA August meeting.

No action taken.

**PUBLIC HEARING:**

None

**APPLICATIONS:**

**Dutchess Reserve LLC for Pumpkin Lane 5-Lot subdivision** – property located on Pumpkin Lane, Tax Grid No. 6568-00-017281

Applicant wishes to subdivide a 110.957-acre parcel to five (5) residential lots with two common driveways and 4 individual driveways, Lot 1 – 18.302 acres, Lot 2 – 21.528 acres, Lot 3 – 9.791 acres, Lot 4 -34.678 acres and Lot 5 – 26.258 acres. The property is in the AR5 Zoning District.

Mr. Graminski along with the property owner, Chrisopher Dierig appeared for this application.

Mr. Graminski explained that Dutchess Reserve LLC is proposing to subdivide the a 110.957 acre parcel into five (5) single family residential parcels. It is proposed to provide access to the parcels via two (2) curb cuts on the west side of Pumpkin Lane. Each lot will be provided with frontage along Pumpkin Lane. One (1) common driveway is proposed along with one (1) individual driveway which will utilize the curb cuts and provide access to four (4) lots and one (1) lot, respectively.

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Mr. Graminski stated that Lots 1, 2, 4 and 5 are proposed with individual driveways providing access to each house site utilizing the common driveway. Lot 3 is located adjacent to Pumpkin Lane with an individual driveway providing access to the house site. Each single-family residential parcel is proposed with a house site, parking area, subsurface sanitary disposal system, well and the necessary electric and telecommunications utilities. Each lot met the requirement of the zoning code.

Mr. Graminski described the current lay out of the land. The site is undeveloped with the exception of an existing pasture used for livestock grazing in the northeast portion of the site along the west side of Pumpkin Lane. The remainder of the site is wooded with two pockets of ACOE freshwater wetlands which have been field delineated, surveyed and identified on the site plan.

Mr. Graminski explained the wetlands and the pond that are present on the property. He also explained the topographic plan that he included with his submission. He indicated the conventional subdivision layout for establishment of the maximum lot count under existing zoning. The conventional subdivision would require a subdivision road leading to a cul-de-sac as a temporary dead-end road pending completion of a through road network. All lots are provided with frontage along the subdivision road.

Mr. Graminski stated that this is a creation of a 5-lot subdivision with the use of rear lots or flag lots. He showed the bounds on the property that is wooded. He noted that the idea of this plan is to minimize site disturbance to the property.

Mr. Graminski stated that a cluster sketch plan will also need to be provided based on this plan. He noted that once sketch endorsement of the proposed subdivision is achieved this will be prepared.

Mr. Diereg added that they are proposing to utilize two access points that were formerly farm roads. He reiterated what his engineer said that the goal is to minimize the site disturbance to the property. He pointed out on the map where one spot requires minimum grading and crossing to the wetland. They intend on taking down dead trees on homesites. They used conservative and low-density methods in developing this plan.

Mr. Graminski underscored that they are utilizing common driveways to minimize site disturbance. Access is attainable through rear lots. He demonstrated the driveway profiles for each lot. He explained how these driveways can be graded.

Mr. Graminski indicated his meeting with the Town Engineer, Town Zoning Enforcement Officer, and the Town Highway Superintendent at the site to introduce and discuss the proposed subdivision. The Highway Superintendent reviewed and approved the site distances of all the driveway locations. He noted

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that the three driveways also met the required 80 feet separation per the town code.

Mr. Graminski discussed the previous discussion with the PB chairman and Mr. Thomas about the section of the code in reference to Rear Lots. He said that the Planning Board has the purview to make the decision to allow the number of rear lots allowed. This is a decision that can be made by the board. He underscored that this is the lot configuration that they desire and is proposing before the board.

**Sec. 250-25 B-3 (Rear Lots)** states that “No two accessways to rear lots may abut. The Planning Board may waive this requirement and allow no more than two abutting accessways to rear lots, except as allowed in sub section **B(5)**,”

Chairman DePasqua solicited questions and comments from the board.

Mr. Thomas asked the property owner about his intent.

Mr. Diereg responded that all their projects normally have 3,000 to 4,000 square feet homes based on the lot size. In regards to this project, only one house will be visible from the road. The rest of the homes will have lots of privacy. Keeping out of sight as much as possible. He cited the project that they have in the town of Milan that is very similar to this project.

Mr. Thomas asked if they have a team to design the house plans. Mr. Diereg responded that they will design, market and build these homes. He described the color and the materials that they normally use but noted that they haven’t designed the plans for this project until they get the approval. He added that they are sympathetic to traditional style.

Mr. Graminski noted that this is just a conceptual design. They are hoping to move forward with all the designs once they get the acknowledgment about the proposed lay out of this project.

Mr. Graminski indicated the detailed discussion that they have with the town engineer in regards to his engineering review such as septic design and sewage disposal, site disturbances, driveway and maintenance agreement, details about the drainage system, etc. They understand that the common driveway needs to be built and drainage should be in place.

Mr. Bonanno asked Mr. Graminski if they prefer common driveway instead of town road. The applicant’s engineer responded, “Yes”.

Mr. Graminski stated that he will check with the Fire Department about the width of the driveway once the board approves the proposed layout of the subdivision.

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Mr. Thomas raised the two technical questions about the proposed project. With respect to the individual access, Mr. Thomas indicated his view given the wetland in the middle of the access on Lot 4, he wants the town engineer to sign off on the individual access plans. He noted that he wasn't at the site meeting. If the town engineer said that this is theoretically feasible then he is fine with it. This is the standard that is supposed to be met.

Mr. Thomas discussed the second question for this application which is abutting accessways. The applicant is proposing two abutting accessways. Assuming the board wants to waive that provision as stated in the code, the question is "Can you have two sets of abutting accessways to rear lots?" Does this mean two in a group or two in the entire parcel? It might need a variance to this section, he doesn't know. Mr. Thomas felt that the board needs a clarification on this section before they can issue a sketch plan approval.

Section 250-25 B-3 states that "No two accessways to rear lots may abut, The Planning Board may waive this requirement and allow no more than two abutting accessways to rear lots",

The board had a lengthy discussion about the matter. Chairman DePasqua solicited the board's feelings about the proposed layout.

Mr. Carroll asked the applicant if this is a cul-de-sac. Mr. Graminski responded, "Yes". He noted that this will be a privately owned road. They are not proposing road dedication to the town.

Mr. Ferrini expressed his concern about the common driveway issue. Mr. Carroll echoed the concern. He doesn't have a problem with the proposed number of lots (5). It's good seeing 5 lots instead of the original proposal of 7 lots.

Mr. Auspits commented that he would rather see 4 lots. These are nicely open spaces in the back property. He shared Mr. Thomas' view about accessways. He asked the applicant if they have thought about doing 4 lots instead of 5. Mr. Diereg responded that the proposed 5-lot subdivision is best for the developer.

Mr. Thomas stated that if they lose one lot, then they will only have one abutting driveway. He wants the town engineer to sign off on all the proposed driveways.

Mr. Auspitz wishes to see the cluster plan subdivision. Mr. Graminski noted that he didn't do the cluster plan since they want to see where the current layout is heading.

After a lengthy discussion, the board agreed to get the ZEO's opinion whether the two abutting driveways will need a variance per Sec. 250-25 B-3. The board



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also wishes to see a conceptual layout for a 4-lot subdivision. Cluster Plan needs to be submitted and needs the town engineer comments.

No action taken.

**Weber & Connell Soil Erosion Control Plan** - property located at 345 Schultz Hill Road, Tax Grid No. 6268-00-958622

Applicant seeks Soil Erosion Plan and Sediment Control Plan per Sec. 250-71 and 250-72 for the construction of single-family dwelling including driveway, septic system and other land improvements.

Matthew Towne from Willingham Engineering appeared for this application. He explained that they initially started clearing the property for the house and the driveway and unaware that a permit is necessary. They had met with the Highway Department but misconstrued it as a "go ahead". He noted that all the work was stopped and sediment control is in place.

Mr. Towne explained the application on hand as indicated above. He pointed out on the map the steep slopes on the property. The darker areas on the map show the extreme steep slopes (over 25%) and the lighter areas shows 15-25% steep slopes. He noted that they avoided most of the extreme steep slope areas. The home site is proposed not on the extreme steep slope areas.

Chairman DePasqua asked for questions and comments from the board.

Mr. Carroll stated that based on his reading and understanding of the code, there are no extreme steep slopes on this property. Mr. Towne agreed with Mr. Carroll, the steep slopes on the property falls under moderate steep slopes. They are not disturbing contiguous 10,000 square feet of steep slopes.

Sec. 250-105 Defines Steep Slopes as:

**A. MODERATELY STEEP SLOPES**

Lands exhibiting slopes of 15% to 25% as calculated by the vertical rise divided by the horizontal distance over any ten-foot interval and encompassing a geographical area of more than 10,000 square feet. (Example: a 1 1/2 foot vertical rise over a ten-foot interval is a 15% slope.)

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**B. EXTREMELY STEEP SLOPES**

Lands exhibiting slopes of greater than 25% as calculated by the vertical rise divided by the horizontal distance over any ten-foot interval and encompassing a geographical area of more than 10,000 square feet.

After a lengthy discussion, the board agreed to defer this application to the town engineer. Escrow is established for \$1,000.00

The board declare lead agency to wit:

Mr. Carroll motioned that the Town of Clinton Planning Board approves the following resolution:

**Whereas**, the Town of Clinton Planning Board has received an application for approval of a steep slopes and soil erosion & sediment control plan pursuant to Sections 250-71 and 250-72 of the Zoning Law on behalf of Steven Weber and Regina Connell pertaining to the construction of a proposed single family residence, including driveway, residential structure, sewage disposal systems and related improvements on a 22.56 acre parcel located at 345 Schultz Hill Road in the Town of Clinton, as depicted on a Site Plan and attachments dated June 10, 2022, prepared by Willingham Engineering; and

**Whereas**, the subject parcel is identified as tax parcel no. 132400-6268-00-958622 and is located in the AR-5 Zoning District; and

**Whereas**, a Short Form EAF, Part 1, has been received; and

**Whereas**, all applicable fees have been paid; and

**Whereas**, the Applicants have submitted an authorization letter to permit Willingham Engineering to appear before the Planning Board on behalf of the Applicants; and

**Whereas**, the Planning Board has determined the proposed project is an Unlisted Action and that an uncoordinated review of the action will be undertaken.

**Now, Therefore Be It Resolved**, the Planning Board determines that the application is sufficient for purposes of commencing the selection of a Lead Agency pursuant to 6 NYCRR 617; and

**Be It Further Resolved**, that the Planning Board hereby declares its intent to assume the role of Lead Agency for this unlisted, uncoordinated action pursuant to Article 8 of the Environmental Conservation Law and Sections 617.6 (2) and (3) of 6 NYCRR Part 617 and directs that a copy of the Short Form EAF

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Part 1, the application and related documents be sent to the following interested agencies: NYS Department of Environmental Conservation; Town of Clinton Highway Department; Dutchess County Soil and Water Conservation District; Town of Clinton Conservation Advisory Council; and West Clinton Fire District; and

**Be It Further Resolved**, that the application shall be referred to the Town Engineer for review and comments and that an escrow in the amount of \$1,000.00 shall be established for this purpose and for the purpose of reviewing the applicability of and compliance with Sections 250-71 and 250-72 of the Zoning Law regarding steep slopes and soil erosion and sediment control.

Seconded by Mr. Auspitz,

**Discussion.** None.

All Aye. Motion carried, 7-0.

**OTHER MATTERS:**

**APPROVAL OF MINUTES:**

Mr. Dolan motioned to accept the minutes of July 19, 2022, seconded by Mr. Ferrini, all Aye, Motion carried, 7-0.

**ADJOURNMENT:**

Mr. Dolan motioned to adjourn the meeting at 9:25 pm, seconded by Mr. Carroll All, Aye, Motion carried, 7-0.

Respectfully Submitted,



Arlene A. Campbell, Clerk  
Planning & Zoning Board of Appeals